

**RESOLUTION NO. 75101**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSÉ AUTHORIZING THE DIRECTOR OF FINANCE OR OTHER AUTHORIZED OFFICERS TO NEGOTIATE, EXECUTE AND DELIVER AN AMENDED AND RESTATED ISSUING AND PAYING AGENT AGREEMENT WITH DEUTSCHE BANK TRUST COMPANY AMERICAS AND AMENDED AND RESTATED DEALER AGREEMENTS WITH EACH OF CITIGROUP GLOBAL MARKETS INC., BARCLAYS CAPITAL INC. AND MORGAN STANLEY & CO. INCORPORATED RELATING TO THE CITY'S SUBORDINATED COMMERCIAL PAPER NOTES FOR THE NORMAN Y. MINETA SAN JOSÉ INTERNATIONAL AIRPORT AND OTHER NECESSARY DOCUMENTS IN CONNECTION THEREWITH; AND DELEGATING AUTHORITY TO THE DIRECTOR OF FINANCE AND TO OTHER OFFICERS OF THE CITY TO ESTABLISH TERMS AND CONDITIONS RELATING THERETO**

**WHEREAS**, the City of San José (the "City") is authorized by its charter to issue notes from time to time for the purpose of financing capital project costs in connection with the Norman Y. Mineta San José International Airport (the "Airport") and to refund such notes; and

**WHEREAS**, on October 2, 1984, the City Council of the City (the "City Council") adopted Resolution No. 57794 providing for the issuance of obligations secured by and payable from the revenues of the Airport Enterprise, as defined in said resolution (said resolution, as supplemented and amended from time to time, the "Master Bond Resolution"); and

**WHEREAS**, the City Council adopted Resolution No. 69199 (the "Tenth Supplemental Resolution"), amending and supplementing the Master Bond Resolution to provide for the issuance of obligations secured by and payable from the revenues of the Airport Enterprise on a basis and secured by a lien that is subordinate to the lien of the Airport revenue bonds issued and outstanding under the Master Bond Resolution; and

**WHEREAS**, the City Council adopted Resolution No. 70532 amending and restating the Master Bond Resolution in the form of a Master Trust Agreement dated as of July 1, 2001, between the City and The Bank of New York Mellon Trust Company, N.A. (successor to BNY Western Trust Company), as trustee (the "Trustee"), and the City and the Trustee have subsequently entered into amendments and supplements to the Master Trust Agreement (collectively, the "Master Trust Agreement"); and

**WHEREAS**, the City Council adopted Resolution No. 69200 authorizing the issuance of not to exceed \$100,000,000 of the City's San José International Airport Subordinated Commercial Paper Notes (the "Notes") and has heretofore authorized the issuance of Series A Notes (Non-AMT), Series B Notes (AMT) and Series C Notes (Taxable) and, pursuant to Resolution No. 69200, the City entered into an Issuing and Paying Agent Agreement, dated as of November 1, 1999 (the "Original Issuing and Paying Agent Agreement"), with Deutsche Bank Trust Company Americas, the successor issuing and paying agent (the "Issuing and Paying Agent") and into a Dealer Agreement with Morgan Stanley & Co. Incorporated; and

**WHEREAS**, the City Council subsequently amended Resolution No. 69200 by the adoption of Resolution No. 73252, Resolution No. 73589 and Resolution No. 74116, authorizing the issuance of not to exceed \$450,000,000 of Notes; and

**WHEREAS**, the City Council adopted Resolution No. 74300 amending Resolution No. 69200, as amended, increasing the maximum principal amount of Notes that may be outstanding at any one time from \$450,000,000 to \$600,000,000 and authorizing the issuance of not to exceed \$150,000,000 of Notes to be issued from time to time as Series D Notes (Non-AMT), Series E Notes (AMT) and Series F Notes (Taxable); and

**WHEREAS**, in connection with an increase in the maximum authorized principal amount of Notes that may be outstanding at any one time from \$450,000,000 to \$600,000,000, the City entered into a First Amendment and Supplement to the Original Issuing and Paying Agent Agreement, dated as of April 1, 2008 (the "First Amendment"), with the Issuing and Paying Agent, and into separate Dealer Agreements with each of Citigroup Global Markets Inc., Barclays Capital Inc. (as successor to Lehman Brothers Inc.) and an Amended and Restated Dealer Agreement with Morgan Stanley & Co. Incorporated (collectively, the "Dealers") for the Series A Notes, the Series B Notes and the Series C Notes and into separate Dealer Agreements with each of the Dealers for the Series D Notes, the Series E Notes and the Series F Notes consistent with Resolution No. 74301 of the City Council; and

**WHEREAS**, the City desires to provide for the redesignation of the Series A Notes in two subseries, known as the "City of San José San José International Airport Subordinated Commercial Paper Notes, Series A-1 (Non-AMT)" and the "City of San José San José International Airport Subordinated Commercial Paper Notes, Series A-2 (Non-AMT/Private Activity)" (the "Series A-2 Notes" and together with the Series A-1 Notes, the "Series A Notes"); and

**WHEREAS**, the City desires to provide for the redesignation of the Series D Notes in two subseries, known as the "City of San José San José International Airport Subordinated Commercial Paper Notes, Series D-1 (Non-AMT)" and the "City of San José San José International Airport Subordinated Commercial Paper Notes, Series D-2 (Non-AMT/Private Activity)" (the "Series D-2 Notes" and, together with the Series D-1 Notes, the "Series D Notes"); and

**WHEREAS**, interest on the Series A-2 Notes and the Series D-2 Notes, which Series A-2 Notes and Series D-2 Notes will constitute “private activity bonds” within the meaning of Section 141 of the Internal Revenue Code (the “Code”), will not be subject to the alternative minimum tax under the Code, as permitted by The American Reinvestment and Recovery Act of 2009; and

**WHEREAS**, in connection with the redesignation of the Series A Notes and the Series D Notes, the City has also determined to enter into an Amended and Restated Issuing and Paying Agent Agreement (the “Amended and Restated Issuing and Paying Agent Agreement”) with the Issuing and Paying Agent and into separate Amended and Restated Dealer Agreements (the “Amended and Restated Dealer Agreements”) with each of the Dealers for the Series A Notes, Series B Notes and Series C Notes and for the Series D Notes, Series E Notes and Series F Notes;

**NOW, THEREFORE**, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSÉ THAT:

Section 1. All of the above recitals are true and correct and this Council hereby so finds and determines.

Section 2. The form of the Amended and Restated Issuing and Paying Agent Agreement, by and between the City and the Issuing and Paying Agent, amending and restating the Original Issuing and Paying Agent Agreement as amended and supplemented by the First Amendment and that is posted on the City’s agenda webpage is hereby approved. The Director of Finance of the City, or any of the Director’s authorized designees, each acting alone (collectively, the “Authorized Officers”), is authorized hereby to execute and deliver the Amended and Restated Issuing and Paying Agent Agreement in substantially the form posted on the City’s agenda webpage, with such additions, changes and corrections therein as necessary and desirable to provide for the redesignation of the Series A Notes and the Series D Notes and to establish and confirm the terms and conditions of the Notes, including the principal amount thereof and the interest rates thereon (provided that the aggregate combined principal amount of the Notes, including accrued interest thereon, outstanding at any one time shall not exceed \$600,000,000 and that the maximum interest rate on the Notes, including the redesignated Series A and Series D Notes, and the maximum true interest cost to the City shall not exceed the maximum permitted by law in each case); and with such additional terms as an Authorized Officer, after consulting with the City Attorney’s office, shall require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. (a) The form of Amended and Restated Dealer Agreement with respect to the Series A Notes, the Series B Notes and the Series C Notes, and the form of Amended and Restated Dealer Agreement with respect to the Series D Notes, the Series E Notes and the Series F Notes, each by and between the City and each of the Dealers, as commercial paper dealers for the City in connection with the offering and sale of the Notes, and that are posted on the City's agenda webpage, are hereby approved. The Authorized Officers, each acting alone, are authorized hereby to execute and deliver each of the Amended and Restated Dealer Agreements in substantially the applicable forms presented to this Council, with such additions, changes and corrections therein as an Authorized Officer, after consulting with the City Attorney's office, shall determine are necessary and desirable, such approval to be conclusively evidenced by the execution and delivery thereof.

(b) Each of the Authorized Officers is authorized hereby to select substitute commercial paper dealers and to enter into commercial paper dealer agreements with such substitute dealers on substantially the same terms as contained in the Amended and Restated Dealer Agreements hereby approved, with such additions, changes and corrections therein as necessary and desirable, as the Authorized Officer after consulting with the City Attorney's office, shall require or approve, such approval to be conclusively evidenced by the execution and delivery of such substitute commercial paper dealer agreements.

Section 4. All actions heretofore taken by the officers and agents of the City with respect to the preparation, execution and delivery of the Amended and Restated Issuing and Paying Agent Agreement, each of the Amended and Restated Dealer Agreements and the other transactions authorized and contemplated herein are hereby approved, confirmed and ratified, and the officers and employees of the City are hereby authorized and directed, jointly and severally, to do any and all things which they may deem necessary or advisable in order to consummate the transactions herein authorized and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution.

ADOPTED this 1st day of September, 2009, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, HERRERA, KALRA,  
LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

NOES: NONE.

ABSENT: CONSTANT.

DISQUALIFIED: NONE.

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk

## CITY CLERK'S CERTIFICATE

I, Lee Price, City Clerk of the City of San José, hereby certify as follows:

The foregoing is a full, true and correct copy of a resolution duly adopted at a regular meeting of the City Council of said City duly, regularly and legally held at the San José City Hall, 200 E. Santa Clara Street, San José, California, on September 1, 2009 and entered into the minutes thereof, of which meeting all of said members of the Council had due notice and at which a quorum thereof were present.

At said meeting said resolution was adopted by the following vote:

Ayes: CAMPOS, CHIRCO, CHU, HERRERA, KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE; REED.

Noes: NONE.

Absent: CONSTANT.

Disqualified: NONE.

An agenda of said meeting was posted at least 72 hours before said meeting at 200 E. Santa Clara Street, San José, California, a location freely accessible to members of the public, and a brief general description of said resolution appeared on said agenda.

I have carefully compared the foregoing with the original synopsis of said meeting on file and of record in my office. Said original resolution has not been amended, modified or rescinded since the date of its adoption, and the same is now in full force and effect.

Dated: September 1, 2009.

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City Clerk of the City of San José, California